

Major Themes in Comments on Staff Drafts of Delta Plan

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Consultant work product. Not reviewed or approved by Delta Stewardship Council. This work product is focused solely on the development of the staff draft Delta Plans. It has no relationship to the EIR processes, nor were the Draft EIR or any comments on that draft reviewed for this analysis.

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Context

The Delta Reform Act of 2009 created the Delta Stewardship Council with a responsibility to develop a Delta Plan, the central goal of which is to advance the coequal goals. The Act seeks to address historical challenges and intense conflicts associated with managing California's water resources to serve the state's long term future, particularly as they hinge on the Delta and its valuable ecosystem.

Five "staff drafts" of the Delta Plan have been released (respectively in February, March, April, June and August, 2011). A sixth staff draft is planned and then a seventh draft Delta Plan to be considered for adoption with the Final EIR. Not surprisingly, the first five staff draft Plans have not received unqualified praise. Instead, the comments reflect the very important reality that any new governmental activity occurs not on a blank slate, but in a complex world including existing:

- diverse understandings of relevant physical, biological and human created systems and their future dynamics,
- focused activities (private and public) (examples include agriculture , manufacturing, ports, and water conveyance, distribution and use),
- specialized interests (public and private) (examples include ecosystem function, transportation, in Delta water use, watershed water use, local and/or state wide economic sustainability and growth),
- constrained organizational missions and mandates(private and public),
- public policies (statutes, regulations and legal decisions), plans (local government general plans, long term capital plans), and programs or projects (levee subventions, ecosystem restoration, pump intake screening)
- conflicts, both active and dormant, many with historical positions
- accommodations and alliances among actors, and
- preferred arenas for resolving conflicts.

These existing complex relationships were recognized in Delta Vision and informed its framing of the related issues and recommendations advanced in the *Delta Vision Strategic Plan* (2008). These relationships directly shaped the legislative work in 2009 and each of the existing factors above can be seen in the legislative package of 2009. These factors are similarly reflected in the comments received on staff draft Delta Plans. While the *Delta Vision Strategic Plan* framed and recommended policies, and the legislative package of 2009 created formal public policy, the implementation of those statutes continues the unfolding of these factors identified above, now possibly shaped by the new legislation. The comments received on the five staff draft Delta Plans reflect this reality of policy implementation.

Broad themes

Considered as a set, there are both commonalities and important differences in the comments coming from different groups.

Among the commonalities are:

- stated commitment to achieving the coequal goals
- very strong commitment to participation in Delta affairs
- desire to be affected minimally by the Delta Plan and the actions of the Council
- desire for the Delta Plan and actions of the Council to protect or advance the interests of those making comments
- concern that the Delta Stewardship Council may not have the technical expertise to be able to grasp and address the extreme complexity of the relevant natural and human created systems

Differences in the comments received can be seen in all of the eight contextual factors identified above, but are most relevant to the development of an effective Delta Plan in three areas:

- understandings of relevant physical, biological and human-created systems and their future dynamics,
- interests (public and private),
- preferred arenas for resolving conflicts

Comments received reflect interests affected by the Delta Reform Act

Wide differences were noted in the level of participation and the number comments across the groups of stakeholders. For example, environmental groups were attentive to the process and provided highly substantive recommendations early in the process, but made relatively few comments compared to those affected by potential environmental actions.

Table 1 shows the total number of comments received and the number of pages those totaled, categorized by interest. Most comments were from either water users or Delta local governments.

Table 1. Comments received by interest, all Staff Draft Delta Plans

Interest	total number of comments received	total pages received
<i>Out of Delta Waters Users</i>	62	522
Exported water	53	470
Watershed water	9	52
<i>Ecosystem function</i>	23	325
<i>Delta as place</i>	71	589
Local governments	36	332
Delta water users and land owners	35	257
<i>Risk reduction</i>	NA	NA
<i>Other</i>	NA	NA

A more complex pattern is seen in the frequency with which terms are used in comments on the third and fifth staff draft Delta Plans, shown in Table 2. Five terms are found in more documents and with greater frequency than the others: (1) water supply, (2) species, (3) environment, (4) Delta ecosystem, and (5) risk.¹ These terms are all plausibly interest related but the meaning of a term is not discernible in this analysis. For example, the use of the term “species” is quite different in the phrases “... protection of native aquatic species is critical” vs. “... climate change could result in extinction of several native species,” or “... efforts to protect species threaten water supply.”

Differences in the number and content of comments could be explained by the degree to which items cross chapter boundaries, or perhaps indicate where the Plan itself is considered adequate; still the following rough content analysis may of interest:

1 . Frequency counts provided by Acrobat Pro analyses of separate folders containing PDF files of comments on the Third Staff Draft and on the Fifth Staff Draft.

Table 2. Frequency of key terms in comments on Third and Fifth Staff Draft Delta Plans

Term used in comment	<i>Third Staff Draft Delta Plan</i>		<i>Fifth Staff Draft Delta Plan</i>		<i>Total, two Staff Drafts</i>	
	Number of documents	Number of occurrences	Number of documents	Number of occurrences	Number of documents	Number of occurrences
reliable water supply	20	60	17	37	37	97
water supply	32	377	45	312	77	689
endangered species	8	26	11	20	19	46
species	20	522	25	252	45	774
environment	32	264	46	272	78	536
delta [as an] evolving place	0	0	0	0	0	0
delta ecosystem	23	158	36	110	59	268
public safety	6	13	5	10	11	23
risk	25	257	25	145	50	402
sea level	13	57	13	49	26	106
earthquake	6	19	5	11	11	30

Some important parts of the Act and Plan lacked champions. Most notably:

- **Long-term risk reduction** received very little commentary. The need for incremental upgrades to the levee system to protect agriculture and through-delta water conveyance did get attention. But comments tended to downplay risks (from both seismicity and sea level rise), and to emphasize the costs and difficulties of major improvements. Impacts of Table 7-1 on current land and resource uses were also of concern.
- **Delta as Place** was the subject of many comments but the goals and methods of achievement were submerged in concerns about loss of control and the conflicts between competing land uses (especially ecosystem restoration vs. agriculture, and local control of land use decisions vs. regional and state needs).
- **Science and Adaptive Management did not receive** a large number of comments. Some of the calls for more or better science tended to be aimed at unwanted policies or actions, with sought-after items deemed ready for implementation based upon the current state of science. But some comments did offer strong suggestions for the better integration of science and policy.

Delta Independent Science Board themes

The Independent Science Board's "Final - Synthesis of Recommendations from the DISB on the Fifth Staff Draft Delta Plan" makes four overarching comments on the fifth draft. These comments may be useful in identifying possible revisions for the sixth draft Delta Plan. Portions of these four comments are given verbatim below:

1. **"Integration.** Chapter 1 provides a comprehensive overview of the interrelationships among the major issues. It is striking, however, that the subsequent chapters on specific issues make so little reference to these interrelationships. This makes it appear as if problems can be managed separately and as if there are not tradeoffs among solutions to different problems. The DISB strongly recommends that, while chapters must address a specific topic, each of chapters 4-8 should also provide some examples of tradeoffs with other policy goals. In one case, Chapter 8, the lack of integration is so extreme that the recommendations are completely at odds with other chapters. The whole purpose of the initiating legislation, the creation of the Delta Stewardship Council, and the development of a Delta Plan is to balance co-equal goals."
2. **"Adaptive Management.** Chapter 2 describes adaptive management, but the Delta Plan does not yet integrate the establishment, use, and maintenance of adaptive management. The legislature mandates adaptive management, yet none of chapters 4-8 begins to address how adaptive management will be used. The DISB recommends that each of chapters 4-8 incorporate descriptions of how adaptive management may be used in the future."
3. **"Monitoring Needs and Performance Measures.** The DISB acknowledges the difficulties of identifying monitoring needs and performance measures without having appropriate conceptual models

of expected outcomes under different management regimes. Nevertheless, successful monitoring and performance measures have been developed for other complex environmental systems from San Francisco Bay to Chesapeake Bay". The plan could give examples from such systems, and could describe how better monitoring will be coordinated and carried out.

4. **"Science Needs.** The DISB recommends that each of chapters 4-8 provide a brief summary of the state of science with respect to the issue addressed in the chapter, in broad terms, and describe the critical science needs. In the judgment of the DISB, conceptual models that incorporate tradeoffs and predict outcomes will be required in order to design adaptive management programs and establish monitoring needs and performance measures."

The DISB comments then go on to offer specific, detailed suggestions for each Chapter that would help further the broad comments expressed above.

Themes organized by group or selected single organization

To better understand major themes of comments received on the five staff draft Delta Plans, they were analyzed in groups, identified by commonalities relevant to the Delta Plan. The initial analyses included both groups of commentators and single organizations which made several comments or had particularly salient roles, as listed alphabetically below:

- Association of California Water Agencies
- Agriculture, in-Delta
- Agriculture, out-of-Delta
- Coalition for a Sustainable Delta
- Contra Costa Water District
- Delta local governments
- Delta direct water users and Delta land owners
- Department of Fish and Game
- Department of Water Resources
- Delta-specific state/regional agencies (DC, DPC)
- Environmental organizations
- Federal government agencies
- Flood risk inclusive
- Northern California Water Association
- Regional Council of Rural Counties
- Delta water importers /interests other than MWD service area
- The Metropolitan Water District of Southern California (and districts served through MWD)
- State Water Resources Control Board
- State and Federal Contractors Water Agency (sometimes jointly with San Joaquin River Group Authority)

Some of these groups (e.g., Association of California Water Agencies [ACWA] or State and Federal Water Contractors Agency [SFWCA]) include multiple members. In addition, some comments analyzed below have been signed by additional organizations (e.g., comments from ACWA or the Coalition of Environmental Justice, Tribal and Fishing Organizations). In total, the comments came from nearly 100 primary organizations, but when identified signatories are included, the total is in the range of 200, and far more organizations/agencies would be included in the total memberships represented. These groups and individuals could be further combined, but are analyzed separately here to provide a base of information on which to consider other aggregations.

Association of California Water Agencies (eight comments, totaling 44 pages)

Three themes are visible, expressed both as critiques of Delta Plan drafts and goals.

1. The Delta Reform Act is best satisfied by a collaborative approach by the Delta Stewardship Council which coordinates and synthesizes the efforts of others, perhaps identifying and addressing any gaps. This theme is expressed in all six comments from ACWA, with additional signatures to some letters (e.g. 60 signatures on the April 8, 2011 letter). The letter of May 6, 2011 is the most direct statement of this theme and the letter of June 24, 2011, additionally argues that there is not a statutory basis for a “regulatory” approach (page 1) and this approach will not be effective (pages 3-5).
2. The staff draft Delta Plans do not provide a coherent plan, are not based in good science and depend too much on regulating water flows. Examples of these comments are seen in the letter of April 19, 2011 (with 7 signatories) and again in the letter of May 5, 2011 on the Third Staff Draft, with 17 signatories. The letter of June 24, 2011 includes the critique of too much emphasis on flows (page 2).
3. An “alternate plan” is advanced in May 2011, with a request that it be included as an alternative in the EIR process. The alternate plan is founded on the premise that *“The Delta Reform Act generally makes the Council the shepherd of state-agency actions--not state-agency regulations--that are necessary for the state to achieve the coequal goals.”* (page 6 (emphasis added))

Agriculture (in-Delta) (five comments, totaling 21 pages)

Two themes are seen in the five comments received from the "Delta Caucus," formed by the county Farm Bureaus of Contra Costa, Sacramento, San Joaquin, Solano and Yolo counties.

1. The Delta Plan does not “protect and enhance agricultural values in the Delta” in a manner that allows for evolving conditions over time. This theme is established in the first comment letter (April 8, 2011, page 1) and continues in the last received (September 30, 2011, page 6).

2. The Delta Plan will result in costs to agriculture in the Delta, some of which could be addressed by exemptions. These comments also raise the specific issue of costs borne by agriculture in the Delta, including the transaction costs to satisfy requirements for covered actions/consistency determination (July 8, 2011, page 2; September 30, 2011, page 6) and the costs of interruption or restriction of agricultural activities for ecosystem restoration or protection of floodways (July 8, 2011, pages 2-3). Exemptions are proposed as a remedy.

Agriculture (out-of-Delta) (five comments, totaling 55 pages)

Two themes are seen in these comments from the California Farm Bureau and the CA State Board of Food and Agriculture.

1. The Delta Plan oversteps the legal authority provided in statute. This judgment is advanced in the four comments received from the Farm Bureau and in the single letter received from the State Board of Food and Agriculture. The later focused on geographical scope (May 4, 2011, page 1) while the Farm Bureau challenges the statutory authority of the Council in several areas, including provisions in the Fifth Staff Draft as seen in the August 25, 2011 comment letter (e.g., regarding ground water at pages 2-11 or on flows and water rights at pages 16-18). The Farm Bureau also advocates that the Council drop some actions required in the Delta Reform Act, including developing a Delta Plan in accordance with the Coastal Zone Management Act or an equivalent (April 22, 2011, page 6).
2. The Economic Sustainability Plan developed by the Delta Protection Commission diverges in important regards from the staff draft Delta Plans and from other state policies. Having made this observation, the Farm Bureau urges the Council to use the Economic Sustainability Plan as a starting point for discussion about the future of the Delta and achieving the goals of the Delta Reform Act of 2009 and other state policies (September 28, 2011).

Coalition for a Sustainable Delta (five comments, totaling 71 pages)

Two themes dominate the five comment letters received from this not-for-profit organization focused on creating a "comprehensive solution to the many stressors" affecting the Delta.

The Coalition is comprised of and supported by water users who depend on the Delta for conveyance of a large portion of their water supplies.

1. The Delta Plan is too focused on flows/exports and demand management, failing to adequately address other stressors or to propose an effective vision for the future of the Delta. Comments on the fifth staff draft (September 21, 2011) make this charge, including specific critiques (e.g., failure to set forth a geographically specific plan for a future Delta, including enforceable land use planning mechanisms and maps).
2. Adaptive management grounded in sound science should guide Delta policy making. The most extensive advocacy on this issue is in the letter of April 4, 2011, which also includes pointed criticisms of the absence of adaptive management under CALFED and strong assertions that the "...hundreds of millions ... in research [on the Delta has not provided] anything approaching a clear understanding of relationships between the Delta's species and ecological communities, and the factors that stress and compromise them." (page 4)

Contra Costa Water District (five comments, totaling 56 pages)

Three themes are seen in five comments received from this water district, which draws water from the West Delta.

1. Water quality is critical and the Delta Plan fails to include water quality policies. Each comment letter from CCWD includes discussion of water quality, especially regarding salinity, and most suggest language for water quality policies. The final comment letter (September 30, 2011) notes that the Fifth Staff Draft "... does not contain a single water quality policy ..." and advances a final proposal to include conformance "... to the extent feasible.." with existing water quality regulations and policies as a requirement of a covered action.
2. Salinity levels were historically lower in the Delta (especially the West Delta) and any calls for increased salinity will not achieve desired effects but will be detrimental to drinking water and to agriculture. The comment letter on the fifth staff draft (September 30, 2011) provides the most extensive treatment of the salinity issue (in Attachment 2).
3. The Delta Plan fails to include effective performance measures. Comments from the CCWD often include supportive discussion of performance measures required under WC section 85211 (the letter of June 24, 2011 contains a longer discussion representative of the perspective advanced at page 3). Comments on the fifth staff draft (September 30, 2011) raise the question of whether performance measures will become regulations and who is responsible for achieving the performance measure, asking that: "... performance measures should be clarified to indicate whether they are part of a Delta Plan policy and therefore a regulation, who is responsible for achieving the performance measure, and how performance will be quantified." (page 6)

Delta local governments (thirty-six comments, totaling 332 pages)

Six themes are visible, expressed here as positive goals for these local governments:

1. Preserve long term local economic and fiscal viability/health of the Delta. This is expressed broadly and in the specifics of the importance of local land uses, below. As an example of specifics, see Solano County, June 24, 2011. Another example is seen in San Joaquin County's expression of concern regarding conversion of agricultural lands to ecosystem projects, May 26, 2011, page 4. Solano County expresses concern shared with others regarding impacts of the Delta Plan (and BDCP) on "the County and its agricultural community(June 24, 2011, page 1)
2. Preserve local land use autonomy. This is most explicitly driven by the prospect of large-scale ecosystem restoration projects, however, references to levee setbacks and flood plains are also included, plus "procedural" consequences of how consistency requirements and covered actions are handled. An example of broad concern regarding "irreversible" economic harm to local landowners is seen in the August 24, 2011 letter from the County of Sacramento. A joint letter from San Joaquin County and the City of Stockton includes erosion of local land use authority among other impacts of concern (September 29, 2011)

3. Clarify consistency/covered actions processes and reduce impacts on local governments and project proponents. The geographic reach of the DP outside the Delta is challenged by several local governments and a detailed critique of how the covered actions and consistency reviews will be done remain a concern even in the fifth staff draft is seen in the September 29, 2011 letter from the City of Stockton. There are multiple calls for excluding any decision made under an adopted local plan (variously defined as general plan, sphere of influence etc.).
4. Ensure that the Delta Plan does not compromise local government agency missions. Seen especially in comments of specific agencies, such as the Sacramento Regional Consolidated Sanitation District, which opposes additional water quality measures and objects to a stressor fee. Other local governments argue that certain plans and programs should be exempt from covered action/certification requirements, with examples seen in the City of Stockton (water supply project, May 5, 2011, page 2), and Contra Costa County (actions under local HCPs/NCCPs, May 6, 2011, page 1).
5. Recognize that risks are moderate and manageable. Almost all Counties comment that the risks are overstated in the draft Delta Plans, and see current efforts as largely sufficient (if given added state funding). Some are intrigued by the proposed regional assessment and management district, but with caution (Contra Costa County letter of June 23, 2011 has six pages of detailed analysis).
6. Include provisions in the Delta Plan which support goals of these local governments vs. other interests/policies. Some counties want the Delta Plan to "control" what happens under BDCP and others have specific policy objectives to advance (e.g., exports and operations of the CVP and SWP, San Joaquin County, May 6, 2011, page 4, new flow requirements on the upper San Joaquin river, or water transfers which cause or aggravate groundwater overdrafts).

Delta water users and Delta land owners (twenty-five comments, totaling 177 pages)

Two themes are seen in comments from this group, which depends upon Delta water taken "directly," and which have varied stakes in management of Delta natural resources sensitive to policy change. The group includes the North, Central and South Delta Agencies, East Bay Municipal Utility District, Solano Water Agency, the City of Antioch, the group Local Agencies of the North Delta (LAND) and the Delta Wetlands project.

1. Current policies and practices are sustainable. This group is largely satisfied with the current status of the Delta and existing policies. The major exceptions to this perspective concern water quality/salinity in the South Delta, and at the water intakes in the West Delta (e.g., for the City of Antioch), both attributed to the effects of water diversions in the watershed and operations of the Central Valley Project and the State Water Project. The South Delta Water Agency calls for

current laws to be enforced, arguing that would improve water quality in that part of the Delta (September 30, 2011, page 1). Overall, changed policies are seen to have more risks than benefits for this group.

2. The Delta Plan should have a limited reach and address any impacts on direct Delta users and land owners. Almost all in this group express this theme, though somewhat differently. Among examples, EBMUD wants the geographical scope clarified (April 1, 2011, page 1), coordination with DWR regarding reduced reliance on the Delta, and observes that while the principle of "beneficiary pays" is relatively well accepted, that of "stressors pay" is much less so (September 27, 2011, pages 1-2). Tom Zuckerman (of the Central Delta) expects the Delta Plan to damage private property and to require compensation, urging careful drafting to achieve desired results with minimum impacts/costs. (May 11, 2100, page 2). The City of Antioch advocates that the Delta Plan focus on the "Delta as a whole" undertaking monitoring and adaptive management beyond that expected of individual agencies or projects (September 30, 2011, page 1). This theme is also consistently expressed in comments from LAND, which emphasizes water provision and flood issues (April 11, 2011), identifies a list of desired exemptions from covered action processes mostly related to agricultural operations and levees (June 24, 2011, page 4), and enumerates a list of complaints consistent with this theme in comments on the fifth staff draft (September 30, 2011, pages 2-3).

Department of Fish and Game (two comments, totaling 13 pages)

Three broad themes are seen in these comments, including a two-page comment to which the US Fish and Wildlife Service is also a signatory.

1. The Ecosystem Restoration Plan Conservation Strategy elevation maps should be used to inform decisions regarding habitat restoration, not to require specific habitats at certain elevation. The DFG recommends changing language in ER P2 to be less restrictive and more flexible (September 29, 2011, page 3 of table of specific comments).
2. Precision in language regarding current policies or scientific knowledge is critical, sometimes best achieved by full, direct quotation of original source documents and in other instances by citing an updated source. Many of the DFG comments in the September 29, 2011 letter make this point (e.g., comment numbers 2, 10, 12, 38, 39, 40, 44, 46, 49, 54, 65, 66, 67, 68, 70)
3. Ecosystem restoration activities undertaken under Natural Community Conservation Plans (NCCPs) or Habitat Conservation Plans (HCPs) should be at least partially exempt from requirements as a covered action. This is the main point of the joint DFG and UFWS letter (October 4, 2011).

Department of Water Resources (six comments, totaling 168 pages)

Three themes can be extracted from the extended, detailed comments of the Department of Water Resources, stated as goals of the Department here:

1. The Delta Plan should not negatively impact the operations and contracting processes of the Department of Water Resources (DWR). The first comment from DWR (March 17, 2011) expresses the concern "... that nearly every project, plan and policy of DWR would be subject to consistency determinations by the Delta Stewardship Council." (page 1) In the second comment letter, DWR argues that "out of the Delta" actions are not within the consistency authority of the DSC and raises the issues of significant costs, time and additional procedures to satisfy consistency requirements in GP P1. (April 15, 2011, page 7) The brief comment letter of July 25, 2011 focuses exclusively on DWR's concern that "... consistency determinations in [WR P1, WR P2 and WR P3] may affect our operations and contracting processes." The DWR comments on the fifth draft include the observation that almost 50 of the 73 recommendations or policies will require some action by DWR and provide a "rough estimate" of needing 150-300 PYs over the next five years, at a cost of \$75-200 million. (September 30, 2011, page 1)
2. The Delta Plan should be technically accurate. DWR provides many recommendations to improve accuracy of the staff draft Delta Plans. Illustrative examples are seen in the comments of June 24, 2011 (pages 14-15 on water use and supply) or of September 30, 2011 (page 34 on levee classifications).
3. The Delta Plan can valuably advance new policies not in the current drafts. Three examples illustrate this theme. First, the DWR comments observe that restrictions on land uses in the Delta are important for risk reduction and that improving levees can lead to increased risk in the absence of land use policies which control development. (April 14, 2011, pages 6 ff; May 6, 2011, page 26 ff; June 24, 2011, page 28 ff, and September 30 is at page 30 ff (see page 32 for observation that when economy improves, any 200 year levees in the Delta would invite development.) Second, DWR recommends policies to protect and enhance snow pack in the Sierra, especially important given projected losses of that snow pack under projected temperature increases due to climate change. (June 24, 2011, pages 12, 20) Third, DWR sees value in a full water balance information system, extending that concept as included in the second staff draft Delta Plan (April 14, 2011).

Environmental organizations (twenty one comments, totaling 352 pages) [note that 165 pages, roughly half, are from one organization (Coalition of Environmental Justice, Tribal and Fishing Organizations)]

Eight themes are visible, expressed here as positive goals:

1. Ecosystem policies and recommendations are generally on the right track. Environmental groups are supportive of continued development and articulation of policies and actions, as

opposed to strong criticism of the Plan. However, there is a concern that DSC may have the unwarranted expectation that other agencies will do their job, and hence the Plan should contain a fuller set of regulatory policies as opposed to recommendations. (TBI May 6, 2011)

2. Many comments of the environmental groups are aimed not at Chapter 5, but at Chapters 1, 2, 3, 4, 6, 7, and 8. This is reflective of the integrated nature of policies and actions that will be required for environmental progress.
3. There is general support for action at the landscape and community levels of the ecosystem. The Plan's discussion of habitat and processes is seen as having improved, with a recognition that habitat alone is not sufficient. But more specificity in requirements (location, extent, and timing) will be needed. (For example: TBI July 1, 2011).
4. There is support for a broad definition of ecosystem health. But environmental groups, like other stakeholders, call for a clearer definition of what constitutes a desirable target state. They support the Plan's recognition that there is no return to pristine conditions, but the lack of a clear target and a process for "ecosystem design" is seen as a shortcoming.
5. In spite of their interest in the ecosystem writ large, environmental groups' concerns about final outcomes are often stated in terms of individual species (such as Spring-run Chinook). (EDF October 5, 2011)
6. Performance measures for ecosystem success are deemed to need much more work. A number of specific measures have been proposed, some of which have been included in the current Draft. (NRDC June 22, 2011). The Plan "... does not translate the broad goals of the Delta Reform Act into specific, measurable objectives that adequately define the Council's desired outcomes for ecosystem restoration, water supply reliability, and other areas." (TBI May 6, 2011).
7. Environmental groups focus not just on habitat and species but on water availability, quality, timing, and flows as covered in Chapters 4 and 6. They emphasize the importance of water in spawning and rearing habitat, and in supporting policies related to shallow-water habitat and land-water connectivity.
8. Environmental groups are strong (perhaps the strongest) supporters of science-based decisions and adaptive management. (NRDC June 22, 2011). The Plan "... provides excellent guidance on adaptive management planning, but fails to incorporate the elements of adaptive management into the Plan itself." (TBI May 6, 2011). This is an important issue, in that indicates the need for key elements of adaptive management to guide the long-term implementation of the DSC mission. This concern ties together several concerns: the need for definitive environmental goals, conceptual models of the management system, performance measures and monitoring, and flexibility to respond.

Federal government agencies (nine comments, totaling 27 pages)

Two themes appear in these comments from four federal agencies (EPA, Bureau of Reclamation, Corps of Engineers (USACE), and NOAA's two offices: Ocean and Coastal Resource Management and National Marine Fisheries Service).

1. A successful Delta Plan will mesh effectively with federal policies, programs and projects. Many of these comments include recitations of federal policies, programs or projects related to the Delta Plan and convey the expectation that the Delta Plan will conform to those federal actions. As examples, see the EPA statements that the staff draft Delta Plan has "... no direct conflicts with EPA programs," (April 14, 2011), the guidance regarding CZMA received from NOAA (May 5, 2011), or the USACE regarding the possibility of a variance regarding vegetation on levees (June 24, 2011, page 2).
2. The federal agencies advocate a limited number of policies for inclusion in the Delta Plan. As examples, see the USACE discussion of removing people and property from flood risk (June 24, 2011, page 2), the recommendation from NMFS that ER P2 from the Second Staff Draft, but absent in the third draft, should be returned in the fourth staff draft (May 26, 2011, page 2) or recommendations from EPA to expand and strengthen flood plain protection and to provide policies or recommendations regarding future improvements in conveyance (May 13, 2011, pages 1-2).

Flood and risk inclusive (comments come from numerous entities that have been counted in other categories; (State and Federal agencies, local governments and NGOs) with only a few individuals speaking to flood risk issues per se).

Some 15 themes are visible, stated as goals:

1. Public safety and flood risk management should be explicitly acknowledged as part of the foundation of all state water management policies. (USACE April 12, 2011 – April 15, 2011)
2. The Plan should emphasize that flood management works do not protect, but rather reduce the probability of events. (USACE April 15, 2011).
3. The proposed USACE levee vegetation policy is at odds with environmental objectives, and collaboration of all agencies is needed to devise a revised policy. (USACE June 24, 2011)
4. Table 7-1 may be at odds with other classification systems, and comparison and discussion will be needed. The Corps will soon release the Levee Safety Action Classification System (LSAC). (USACE June 24, 2011)
5. "Some discussion of reducing or removing people and property from flood threat could tie risk management and ecosystem restoration together." (USACE June 24, 2011). This may be the only comment referencing this strategy, other than that of Lund (UCD, PPIC).
6. The Plan's reference to seismic risk is seen by some as a worst-case overstatement: "... as justification for conveyance, and permanent restrictions on Delta development and agriculture." LAND (30 September, 2011).

7. A number of parties call for more precise definition and mapping of potential floodways. (DWR Sept 30, 2011).
8. Levees are generally seen as critical to all Delta uses. "Many aspects of the Delta are defined, protected, or preserved by the levee system. Water quality, human health and the environment in the Delta are all affected by the levee system. These levees limit tidal excursion and tidal volume to prevent degradation of water quality. These same levees prevent flooding of farm lands, homes and terrestrial habitat. The Delta levees are critical to many aspects of the Delta. This is especially true for water quality as discussed in this chapter. (DWR May 6, 2011)
9. Levee maintenance programs are critical and must be continued and expanded; "[Maintenance is] the greatest measure to reduce likelihood of flooding" (DWR June 24, 2011)
10. The policy of levee/land-use congruence (Table 7-1) receives considerable attention, with some in contention and some support. "The concept of levee classifications based upon a degree of risk commensurate with the resources protected has great merit as long as abandonment after flooding does not become part of the policy" (Zuckerman June 6, 2011)
11. The rationale for levee/land-use congruence needs further elaboration. The implications of Table 7-1 need to be forecast in terms of common land-use activities and further detail offered on how it would be implemented.
12. The Plan's policies and recommendations on levee/land-use congruence, including Table 7-1 could encourage further development behind dikes. DWR comments: "The Plan states that "future land use decisions should not permit or encourage construction of significant numbers of new residences... ." Once urban areas in the Secondary Zone achieve a 200-year level of protection, which is what the CVFPP intends to achieve, and the economy improves, we can expect that spheres of influence would undergo new development in accordance with existing plans. This is particularly true for Tracy, Lathrop and Stockton." (DWR September 30, 2011).
13. It is suggested that levee upgrades to PL 84-99 should be deemed consistent with the Plan so as to speed and facilitate this process (Zuckerman July 6, 2011).
14. The Plan should be more accurate and precise in reporting the number of miles of levee that would require upgrade, and in computing costs. It is claimed that the Plan currently overstates both needs and costs (MBK/Cosio April 8, 2011). Detailed recommendations are given for addressing this issue.
15. The Plan's stand on flood proofing should be clarified. As a strategy for existing development it may be more cost-effective than levee upgrade, but "[it] does not fully address risks to life, or access for emergency response, evacuation, and maintenance" (Delta Wetlands April 15, 2011). This concern can also be applied to new development of isolated mound and stilt houses. Further clarification of this general policy is called for (Sac County April 15, 2011).

Out of these themes, it is possible to draw some general conclusions:

There is fairly wide agreement that flooding is a serious issue, but there are wide differences on how much change, if any, is needed to address the problem. All recognize that funding will be needed, but there are wide differences in how much should be considered. There is concern that huge figures will make the task seem hopeless and thus deter investment.

The commentators give no serious attention to the earthquake threat. There have been no Delta levee failures from seismic events thus far and most reviewers are optimistic that marginal increases in levee maintenance will suffice. There is a prevalent impression that current levees are stronger than feared, and this impression is not seriously challenged.

Some maintain that the FEMA 100-year standard will be adequate for even urban land uses, others see the DWR 200 design as adequate; but no one cited the Dutch standards (or half or a quarter of the way toward Dutch standards) as necessary.

There is a stated concern that the Plan's assertions about the seriousness of risk are intended not to justify the need for public safety, but other policy objectives such as land use regulation, conversion of farmland to habitat, and through-Delta conveyance. This assertion was made directly by only one party (LAND), but it may possibly lie behind the views of some others.

There is little reference to the problem of existing legacy towns, scattered homes, businesses and resources that lie behind levees that are uncertified or out of sync with Table 7-1 (or other classification statements). There were no calls for stronger policies to address the current level of risk, but rather comments (and the Plan) point almost exclusively to future development.

Northern California Water Association (four comments, totaling 27 pages)

This group advances a single main theme.

1. The Delta Plan should reconcile interests regarding flows, recognizing that the existing flow regime has evolved to meet multiple objectives simultaneously. This theme is initiated in comments on the first staff draft (March 14, 2011, page 1) and is developed extensively in comments on fifth staff draft Plan September 30, 2011, especially the analysis paginated separately (pages 1-15).

Regional Council of Rural Counties (five comments, totaling 25 pages)

Two related themes are seen in these comments:

1. The Delta Plan should focus the Council's limited authority on the Delta. The comments of March 7, 2011, introduce this theme (page 1) which is seen also in comments of May 5, 2011 (pages 1, 3) and of June 30, 2011 (pages 1, 2). These comments also argue the Staff Draft Delta Plans do not, in reality, constitute a cohesive "plan" which links actions to promote the coequal goals (e.g., August 16, 2011, page 2)
2. Local areas and their local governments are best equipped to address several issues now included in Staff Draft Delta Plans. Specifically identified are groundwater (March 7, 2011, page 2; May 5, 2011, pages 4 and 6) and local land uses (e.g., May 5, 2011, page 5).

Delta water export users/interests other than MWD service area (ten comments, totaling 71 pages)

This varied group advances three themes:

1. The Delta Plan should adhere to the (narrow) authority of the 2009 Act. Among examples of this theme, the Alameda County Flood Control and Water Conservation District, Zone 7, objects to “micromanagement” of local district actions (September 19, page 2)
2. The Staff Draft Delta Plans are too “flow centric.” This theme is advanced particularly by the San Joaquin River Group (e.g., September 30, 2011, pages 1-3)
3. The Delta Plan should accommodate the missions of existing agencies and activities under existing programs. The comments received from the Central Valley Clean Water Association illustrate this theme (e.g., September 30, 2011, pages 1-4, identify four objectionable provisions of the Fifth Staff Draft related to the mission of its member agencies; and the September 19, 2011 comment from Zone 7 observes that the district is “... no longer able to guarantee water supply for the ultimate build out of the adopted general plans of the communities we serve.” (pages 1-2))

The Metropolitan Water District of Southern California (and districts served through MWD) (nineteen comments, totaling 61 pages)

Three themes are seen in these comments

1. Support completion of the BDCP process and include BDCP in the Delta Plan. This theme is initiated in the first comments received from MWD (March 22, 2011) and is restated later (MWD, May 6, 2011, page 3). The MWD comment letter of July 13, 2011 advances edits to the Fourth Staff Draft which substitutes certification of a covered action as consistent with the BDCP, “... not with other parts of the Delta Plan.” (page 1) In the same vein, the Foothill Municipal Water District (September 20, 2011, page 1) and the Upper San Gabriel Valley MUD (September 21, 2011, page 1) are concerned that the Council will review and impede BDCP actions. Other districts within the MWD service area voiced similar concerns, often citing a “... key objective of the BDCP—namely the recovery of water supplies lost to Delta regulatory restrictions.” (e.g., City of Torrance, September 29, 2011, page 1)
2. Focus on areas of clear authority for the Delta Plan and work with other agencies and policies whenever possible. This theme is evident in various comments, including (MWD, March 10, 2011, pages 1-2; MWD, May 6, 2011, pages 1-3; MWD, June 10, 2011, pages 1-2)
3. The Delta Plan could address inadequacies in current policies. Examples of this theme are seen in the recommendation from the Santa Ana Watershed Project Authority that the Delta Plan could address the financial implications to districts of reduced reliance on the Delta and State Water Project (June 23, 2011, page 2) and in comments from Valley Center MWD recommending that the Council, through the Delta Plan and other actions, seek “regulatory

balance” to allow districts to move forward local and regional water resource projects “... in and affordable and timely manner.” (August 23, 2011, page 1)

State Water Resources Control Board (three comments, totaling 30 pages)

Two themes are consistently expressed in these comments.

1. The Delta Plan should accurately reflect authorities and roles. This theme is expressed in all three comment letters and is commonly advanced as supporting the intent of the staff draft Delta Plan. Examples include comments regarding SWRCB authorities related to groundwater (April 15, 2011, page 3; September 30, 2011, page 6) or specific possible projects, such as improving the habitats in Suisun Marsh or the Yolo Bypass (September 30, 2011, pages 7-8)
2. The SWRCB will need additional funds and (sometimes) more time than projected to complete recommended activities. Again, this theme is expressed in all three comment letters. The substantial costs to develop and implement changes in flow objectives receive the most detailed attention (April 15, 2011, page 2; June 24, 2011, pages 4-6; September 30, 2011, pages 3-4).

The SWRCB also explicitly recognizes and thanks staff for accepting some recommended changes in subsequent staff drafts of the Delta Plan (September 30, 2011, pages 6, 9)

State and Federal Contractors Water Agency (sometimes jointly with San Joaquin River Group Authority) (nine comments, totaling 98 pages)

Three themes emerge from the comments of this water group, stated as their desired outcomes.

1. Policy autonomy for water agencies. This theme is illustrated in several veins of comment:
 - in interpretation of the what the statute requires of the Delta Plan (e.g., meaning of “reduced reliance on the Delta,” interpreted as possible future reductions and unrelated to improving water supply reliability) (Letter to ISB Chair Norgaard, September 16, 2011),
 - in expectation that change in water agency use patterns will be the result of decisions made by other bodies (such as the SWRCB) and that water districts be compensated from public funds for any adverse impacts (e.g., March 3, 2011, page 3) or voluntary actions, and
 - in expectation that the results of the water user community stakeholder BDCP process will shape major public policies central to the coequal goals. This includes arguments that all elements of the BDCP should be incorporated into the Delta Plan and “... all of its activities are by definition consistent with the Delta Plan.” (June 24, 2011, page 3) Specific language to this end, including future operations of new Delta conveyance

facilities, is proposed in the comments on the Fifth Staff Draft (September 30, 2011, page 4). Moreover, the BDCP process is expected to set the major parameters of ecosystem restoration, as seen in comments that the Department of Fish and Game's Ecosystem Restoration Program Conservation Strategy may not be an appropriate basis for ER P2 as it has not been assessed against what may emerge from BDCP (September 30, 2011, pages 2-3). Similarly, since "BDCP will include a comprehensive package of new water operation criteria, habitat restoration and a strategy to address other stressors ... SWRCB will be able to review issues such as water quality and potential effects on the environment or other water users." (September 30, 2011, page 2)

2. Improved water supply reliability including more predictable and increased exports from the Delta. SFWCA argues consistently that the goal of the Delta Reform Act is to "provide a more reliable water supply," and in comments on the first staff draft, objected to "manage water resources" language. They also cite the specific criteria for promoting a more reliable water supply in WC Section 85302(d). (June 14, 2011, page 1) Their disagreement with the treatment of water supply reliability in the Third Staff Draft is captured in the characterization of the Plan as a "... despairing hospice car manual..." which does not seek "... improving the water supply reliability of the export projects, which is central to improving the state's water supply reliability." (May 6, 2011, page 4)
3. A Delta Plan which builds on/integrates/coordinates other public actions and has limited regulation. The first comment received from SFCWA includes this theme, enumerating several specific existing policies and programs managing water resources and urging the Council and Delta Plan to inventory all such policies and programs (June 14, 2011, pages 2-3).